

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CRAIG JOSEPH WHITE,

Defendant.

Case No.: 2:10-cr-00418-GMN-PAL

ORDER

Pending before the Court is Defendant's Motion for Reconsideration (ECF No. 42). The Government filed a Response (ECF No. 43). For the reasons discussed below, the Court denies the Motion.

On January 29, 2015 Defendant Craig Joseph White filed a Motion to Vacate, Set Aside or Correct Sentence Pursuant to 28 U.S.C. § 2255 (ECF No. 32), which this Court denied (ECF No. 41). Shortly thereafter, Defendant filed the instant Motion for Reconsideration. (ECF No. 42).

A motion for reconsideration under Rule 59(e) "should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed *clear error*, or if there is an intervening change in the controlling law." 389 *Orange St. Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999) (emphasis added) (citing *School Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993)).

Here, the Court finds that Defendant does not present any unusual circumstances that would warrant reconsideration. Rather, Defendant's Motion merely relitigates the arguments raised in his prior Section 2255 Motion.

Although the Court denies Defendant's present Motion for Reconsideration, the Court

1 will issue a Certificate of Appealability (“COA”) for the following issues: (1) whether the
2 indictment can be silent as to the means of interstate or foreign commerce; and (2) whether the
3 indictment can be silent as to the specific sexual activity Defendant sought to have with the
4 victim. However, the Court will not issue a COA as to the issue of whether the statute of
5 conviction is ambiguous because it does not define “sexual activity” because the Court
6 previously found that this issue was procedurally barred pursuant to Defendant’s Plea
7 Agreement.

8 Accordingly,

9 **IT IS HEREBY ORDERED** that Defendant’s Motion for Reconsideration (ECF No.
10 42) is **DENIED**.

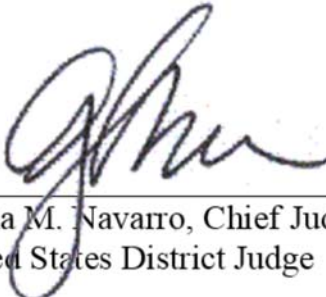
11 **IT IS FURTHER ORDERED** that the Court grants a COA as to the following issues:

12 (1) Whether the indictment can be silent as to the means of interstate or foreign
13 commerce.

14 (2) Whether the indictment can be silent as to the specific sexual activity
15 Defendant sought to have with the victim.

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17 **DATED** this 23rd day of July, 2015.

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Gloria M. Navarro, Chief Judge
United States District Judge